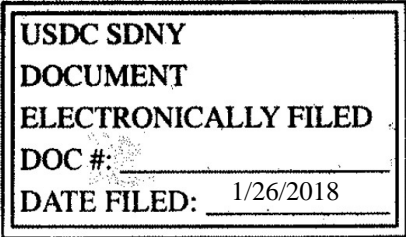


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



PAULINO DE LA CRUZ and JUVENTINO
RAMOS,

Plaintiffs,

-against-

TREJO LIQUORS, INC. and JOHANNY
TREJO,

Defendants.

16-CV-4382 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

On December 8, 2017, I held an order to show cause hearing for default judgment as to Defendant Trejo Liquors Inc. (“Trejo Liquors”). Mr. Edgar Rivera, on behalf of Plaintiffs, was the only party to appear. At that hearing, I set a status conference for today in order to determine if Defendant Johanny Trejo, proceeding pro se, had retained or intended to retain counsel for Trejo Liquors. On December 21, 2017, I issued a written order directing all parties to appear for today’s status conference. In that order, I informed Defendants, including Ms. Trejo, that their failure to appear may result in judgment in favor of Plaintiffs. A copy of that order was mailed to Ms. Trejo’s address of record.

Ms. Trejo not only failed to appear at today’s status conference, but also informed my chambers by telephone that she did not wish to appear in person or by telephone. Accordingly, for the reasons stated on the record at today’s status conference, it is hereby:

ORDERED that Plaintiffs' application for entry of default judgment against Trejo Liquors is DENIED WITHOUT PREJUDICE.¹

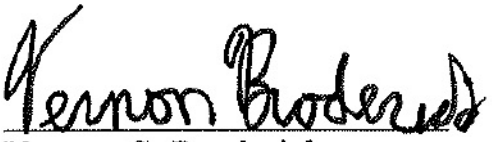
IT IS FURTHER ORDERED that, for the reasons stated on the record, Defendants' motion to dismiss, (Doc. 46), is DENIED.

Finally, it has become clear that Ms. Trejo may no longer be willing to defend herself in this case. Plaintiffs may, if they choose, seek to enter default judgment against all Defendants. Plaintiffs are directed to Rule 4.H and Attachment A of my Individual Rules governing default judgment. Plaintiffs are further directed that they should attempt personal service on Ms. Trejo of any such order to show cause for default judgment against all Defendants.

The Clerk of Court is respectfully directed to terminate the pending motion at Document 46 and mail a copy of this order to the pro se Defendant Johanny Trejo at 948 Amsterdam Avenue, New York, NY 10025.

SO ORDERED.

Dated: January 26, 2018
New York, New York


Vernon S. Broderick
United States District Judge

¹ Because the causes of action in Plaintiffs' complaint give rise to joint and several liability, the facts and procedural posture of this case militate in favor of adhering to the general rule governing defaults, which advises that courts should abstain from entering a judgment against a defaulting defendant when that party is one of several defendants who may be jointly liable, until that action has been adjudicated with regard to all defendants, or all defendants have defaulted. *See* 10A Wright, Miller & Kane, Fed. Prac. & Proc. Civ. § 2690 (“[W]hen one of several defendants who is alleged to be jointly liable defaults, judgment should not be entered against that defendant until the matter has been adjudicated with regard to all defendants, or all defendants have defaulted.”).